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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,388	03/26/2001	Peter J. Armbruster	IRI05436	9653
22863	7590	07/27/2005	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD 1L01/3RD SCHAUMBURG, IL 60196			WONG, BLANCHE	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,388

Applicant(s)

ARMBRUSTER ET AL.

Examiner

Blanche Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,9,10,17 and 19 is/are rejected.
- 7) ☒ Claim(s) 3,4,7,8,11-16 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date Feb'05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1 and 17** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to cl. 1, it is unclear whether bearer traffic is detected from a user terminal, such as within limitation "detecting bearer traffic of a first user terminal" in ln. 3, or whether bearer traffic is detected from a real time protocol of a user terminal, such as within limitation "detecting bearer traffic from the real time protocol of a second user terminal" in ln. 7-8.

With regard to cl. 17, it is unclear whether bearer traffic is from a user terminal, such as within limitation "detecting bearer traffic transmitted by a first user terminal" in ln. 4, or whether bearer traffic is from a real time protocol of a user terminal, such as within limitation "detecting bearer traffic from the real time protocol of a second user terminal by the first user terminal" in ln. 9-10.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1,5,6,9,10,17,19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Simard (Pub. No. Us2002/0085697) in view of Verthein et al. (U.S. Pat No. 6,487,196).

With regard to cl. 1 and 17, Simard discloses a token control (signaling) method for an internet conference call (voice conferences within packet-based communication networks, para [0038]) among a plurality of user terminals 16 (telephone terminals), the token control method comprising the steps of:

detecting (speech indication signals are sent when there is speech so that no speech detection operation needs to be performed within the conference bridge, para. [0043])(if a participant corresponding to a particular packet-based terminal is speaking or not, para. [0043]) bearer traffic (speech) from a first user terminal of the plurality of user terminals; and

detecting bearer traffic from the real time protocol of a second (primary and secondary talkers, para. [0045]) user terminal (a talker selection algorithm to select talker, para. [0043]) of the plurality of user terminals.

However, Simard fails to explicitly show detecting silence from a real time protocol of data packets being transmitted by the first user terminal of the plurality of user terminals, a portion of at least one of the data packets in real time protocol indicating silence.

In an analogous art, Verthein discloses detecting 232 (see Fig. 5B; col. 18, ln. 44-45) silence from a real time protocol (The audio packetization module frames RTP-based packets, col. 15, ln. 58-61) of data packets, and a portion of at least one of the

data packets in real time protocol indicating silence (The audio packetization module inserts silence packets, col. 16, ln. 23-24).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have at least one silence packet in RTP. The suggestion/motivation for doing so would have been to provide for protocol processing that is distributed between the network interface and the HDM (high-density modems, col. 15, ln. 49-51). Therefore, it would have been obvious to combine Verthein with Simard for the benefit of silence packet(s) in RTP, to obtain the invention as specified in cl. 1.

With regard to cl. 5 and 19, the combination of Simard and Verthein discloses the token control method as claimed in cl. 1 and 17 respectively.

Verthein further discloses examining data of the data packets for an indication of silence. (It would have been obvious where there is in the step of detecting silence from a RTP, there would need to be an examination for the silence packet.)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have at least one silence packet in RTP. The suggestion/motivation for doing so would have been to provide for protocol processing that is distributed between the network interface and the HDM (high-density modems, col. 15, ln. 49-51). Therefore, it would have been obvious to combine Verthein with Simard for the benefit of silence packet(s) in RTP, to obtain the invention as specified in cl. 5.

With regard to claim 6, the combination of Simard and Verthein discloses the method claimed in cl. 5. However, the combination fails to explicitly show detecting bearer traffic from the real time protocol of a second user terminal of the plurality of user terminals.

In order to examine data of the data packet, it would have been obvious that there must be detection of such data in bearer traffic.

A person of ordinary skill in the art would have been motivated to include a detection step with an examination step. The suggestion/motivation to do so would have been to capture the data for examination. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Simard and Verthein in view of obviousness to obtain the invention as specified in cl. 6.

With regard to cl. 9, Simard further discloses replicating the data packets of the first user terminal for transmission to each of the plurality of user terminals (if there is only a single talker selected by the talker selection block 44, the outputting apparatus 34 forwards these selected voice signals to all the packet-based terminals within the voice conference, para. [0046]).

With regard to cl. 10, Simard discloses replicating the data packets of the first user terminal for transmission to each of the plurality of user terminals (if there is only a single talker selected by the talker selection block 44, the outputting apparatus 34 forwards these selected voice signals to all the packet-based terminals within the voice

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conference, para. [0046]), as recited in cl. 9. However, Simard or Verthein fails to explicitly disclose if silence is not detected, as recited in cl. 10.

In order to select a talker, it would have been obvious that the talker is not silent.

A person of ordinary skill in the art would have been motivated to assume that there is no silence. The suggestion/motivation to do so would have been to select a talker. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Simard in view of obviousness to obtain the invention as specified in cl. 10.

5. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Simard and Verthein as applied to claims 1,5,9,17,19 above, and further in view of Holden (U.S. Pat No. 6,771,639).

With regard to claim 2, the combination of Simard and Verthein discloses the method in cl. 1. However, the combination fails to explicitly show internet conference call via a SIP over an internet, as recited in cl. 2.

In analogous art, Holden discloses communicating using IP using SIP, col. 3, ln. 7-col. 4, ln. 33.

A person of ordinary skill in the art would have been motivated to employ Holden in the combination of Simard and Verthein in order to have SIP. The suggestion/motivation to do so would have been to provide for additional information to describe the desired call session. Holden, col. 2, ln. 25-26. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to

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which the invention pertains to combine Simard, Verthein and Holden to obtain the invention as specified in cl. 2.

Response to Arguments

6. Applicant's arguments with respect to claims 1,5,6,9,10,17,19,20 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

7. **Claim 20** is allowed.

8. **Claims 3-4,7-8,11-16,18** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blanche Wong whose telephone number is 571-272-3177. The examiner can normally be reached on Monday through Friday, 830am to 530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BW

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July 24, 2005



CHI PHAM

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